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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,074	01/21/2004	Lawrence P. Davis	H17091-01--1622	5920

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EXAMINER

SWIA TEK, ROBERT P

ART UNIT	PAPER NUMBER
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3643

MAIL DATE	DELIVERY MODE
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03/06/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/763,074

Applicant(s)

DAVIS ET AL.

Examiner

Rob Swiatek

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 9, 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Rasmusson (US 4,662,178). The Rasmusson spacecraft 210 (Figure 11) includes a unitary structure 214 within which a plurality of control moment gyros 234, 236, 238 are disposed. A series of elongated mounting members 218, 220 secure the gyros 234, 236, 238 in the interior of the unitary structure, while attachment devices in the form of four weblike struts (unnumbered) extend from the exterior surface of unitary structure 214 to a spherical outer spacecraft hull 210. Compartments 212 are formed between the outer hull, the struts, and the unitary structure. A control system, while not specifically depicted, is implied in column 8, lines 3-14, of Rasmusson, which discuss activating and deactivating the gyros via their associated motors 222, 224, 226, 228, 230, 232. The struts are considered to possess predetermined stiffness and damping characteristics and are deemed to be "adapted" to transmit torque and vibration.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12, 15, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rasmusson. Increasing the overall stiffness of the unitary structure 214 of Rasmusson relative to that of the strut attachment devices would have been obvious to one skilled in the art wishing to predictably enhance the strength and protection afforded gyros 234, 236, 238 while minimizing vibration transmission between the outer spacecraft hull 210 and the internal unitary structure.

The reissue oath/declaration filed with this application is defective (see 37 CFR 1.175 and MPEP § 1414) because of the following: It does not state the reissue is a broadening reissue or contain an explanation as to the nature of the broadening necessitated by "patentee claiming more or less than he had the right to claim in the patent." Claim 9 is considered to be broader than patented claims 1, 5, or 6.

Claims 1-19 are rejected as being based upon a defective reissue declaration under 35 U.S.C. 251 as set forth above. See 37 CFR 1.175.

The nature of the defect(s) in the declaration is set forth in the discussion above in this Office action.

In accordance with 37 CFR 1.175(b)(1), a supplemental reissue oath/declaration under 37 CFR 1.175(b)(1) must be received before this reissue application can be allowed.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 5, 8 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with

which it is most nearly connected, to make and/or use the invention. In claim 5, lines 21, 22, the recited step of "creating force signals" does not seem to be described in the specification; the claim 8 limitation of the struts "contain[ing] damping means for attenuating the transmission of noise" also does not seem to be described in the specification.

If the above rejection under 35 USC 251 is overcome and claims 11, 13, 14, 17-19 rewritten in independent format, including the limitations of any intervening claims, they will be allowed. If the rejections under 35 USC 251 and 35 USC 112, paragraph one, are overcome, claims 5, 8 will be allowed. If the rejection under 35 USC 251 is overcome, claims 1-4, 6, 7 will be allowed.

The references to Harrell (US 5,820,079) and Kummel (DE 3523 160 A1) have been cited to provide additional examples of gyroscopically stabilized assemblies.

/Rob Swiatek/

Primary Examiner, Art Unit 3643

Ph.: 571/272-6894
25 February 2009